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INTERSTATE COMMERCE COMMISSION

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**North American Car Corporation  
Equipment and Collateral Trust  
Second 1970 Series**

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**EQUIPMENT AND COLLATERAL  
TRUST AGREEMENT**

**Dated as of August 15, 1970**

**BETWEEN**

**HARRIS TRUST AND SAVINGS BANK  
TRUSTEE**

**AND**

**NORTH AMERICAN CAR CORPORATION**

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**THIS EQUIPMENT AND COLLATERAL TRUST AGREEMENT**, dated as of August 15, 1970, between **HARRIS TRUST AND SAVINGS BANK**, as Trustee (the "Trustee"), and **NORTH AMERICAN CAR CORPORATION**, a Delaware corporation (the "Company"):

**WITNESSETH** as follows:

WHEREAS, the Company will vest or cause to be vested in the Trustee title to the cars specifically described in this Agreement, and in cases where the cars are subject to existing lease agreements, the lessor's interest therein (said cars, together with replacements and additions as herein provided, being hereinafter collectively, unless the context shall otherwise indicate, called the "Trust Equipment"); and

WHEREAS, subscriptions have been and are being secured in the amount of \$7,100,000 to a fund to be known as the North American Car Corporation Equipment and Collateral Trust, Second 1970 Series, which fund is to be paid to or upon the order of the Company as hereinafter provided; and

WHEREAS, North American Car (Canada) Limited, a wholly-owned subsidiary of the Company (the "Canadian Subsidiary"), has entered into an Indenture of Guarantee (the "Indenture of Guarantee") with the Trustee dated as of August 15, 1970, whereunder the Canadian Subsidiary, to the extent of \$1,773,559, has guaranteed the obligations of the Company under this Agreement, and said guarantee will be secured by the deposit and pledge with the Trustee under an Agreement of Pledge of certain bonds (the "Pledged Bonds") issued by the Canadian Subsidiary (said Indenture of Guarantee, Agreement of Pledge and Pledged Bonds being hereinafter collectively called the "Collateral"); and

WHEREAS, the Company desires to provide for securing to the parties subscribing to said fund, or their assigns, the payment of the amount thereof as hereinafter specified, with dividends as hereinafter set forth, and to evidence the rights of the subscribers to said fund by Equipment Trust Certificates (the "Certificates") in substantially the forms hereinafter provided:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the parties hereto agree as follows:

**ARTICLE I**  
**FORMS AND PROVISIONS OF CERTIFICATES**

SECTION 1.01(a). The Certificates shall be in fully registered form and shall represent an interest in the trust hereby created, in such amounts, approved by the Board of Directors of the Company, as may be set forth therein. Certificates shall be exchangeable for Certificates of other authorized denominations, for like aggregate principal amount. The holders of the Certificates, which shall mature on August 15, 1985, shall be entitled to receive dividends thereon from the date or dates of issue thereof until the principal amount thereof shall have become due and payable, at the rate of 10½% per annum, payable semiannually on February 15 and August 15 of each year commencing February 15, 1971, with interest on unpaid principal and dividends at the rate of 12% per annum. The Certificates shall be numbered R-1 upwards, consecutively, shall be dated as of August 15, 1970 (except as to Certificates issued after February 15, 1971 which shall be dated as of the dividend payment date next preceding their issuance to which dividends shall have been paid, unless issued on a dividend payment date, in which case they shall be dated the date of issue).

(b) On each August 15, commencing August 15, 1971 and ending August 15, 1984, \$473,215 aggregate principal amount of the Certificates shall be redeemed. Each such date is hereinafter referred to as a "Sinking Fund Date." The Certificates shall be subject to such redemption in part, upon payment of the principal amount of Certificates then redeemed plus dividends accrued thereon to the Sinking Fund Date, the whole constituting the redemption price.

Not later than forty days preceding each Sinking Fund Date the Trustee shall determine the amount of the principal of each Certificate which is to be redeemed. The amount of each Certificate to be redeemed shall be that percentage of the original principal amount of such Certificate which the aggregate principal amount of Certificates to be redeemed on such Sinking Fund Date bears to the aggregate original principal amount of the Certificates, provided, however, that the Trustee shall make such adjustments as shall be necessary to make each such amount to be redeemed a number of whole dollars.

Notice of redemption shall be given to the holders of Certificates by registered mail, postage prepaid, addressed to them at their respective addresses as the same shall appear on the registry books of the Trustee, not less than thirty days prior to each Sinking Fund

Date. Every such notice shall specify the redemption date, the redemption price, the place of payment, the principal amounts of the parts of the Certificates to be redeemed and the numbers of the Certificates and shall state that dividends upon the principal amounts called for redemption shall cease to accrue from and after the redemption date.

Not later than the second full business day preceding such Sinking Fund Date the Company shall pay to the Trustee a sum equal to the redemption price of the principal amount of Certificates to be redeemed on such date.

Upon notice being given as aforesaid, that part of the principal amount of every Certificate so called for redemption shall be and become due and payable at the redemption price on the redemption date specified in such notice and with the same effect as if it were the date of maturity specified in each such Certificate, and from and after such redemption date dividends upon the principal amount so becoming due and payable shall cease unless payment of the redemption price shall not be made on presentation for surrender of such Certificate at the place specified for payment on or after the redemption date.

Payment of the redemption price of a portion of any Certificate may be made to the registered holder thereof without presentation or surrender thereof to the Trustee if there shall have been filed with or exhibited to the Trustee an agreement between the Company and such registered holder that (a) such holder will make or cause to be made notations on such Certificate of the portions thereof so redeemed, and on request of the Company or the Trustee will confirm the making of such notations, and (b) such holder will not dispose of such Certificate or of any interest therein without, prior to any delivery of such Certificate, first surrendering the same to the Trustee in exchange for a Certificate or Certificates in authorized denomination or denominations aggregating the same principal amount as the then unpaid principal amount of the Certificate surrendered. The Trustee shall be under no duty to determine that such notations have been made. In the alternative, the holder of any Certificate may, upon presentation of his said Certificate and upon receiving payment of the moneys payable to him by reason of such redemption, surrender the said Certificate to the Trustee and the Trustee shall cancel the same and shall without charge certify and deliver to such holder a Certificate of aggregate principal

amount equal to the unredeemed principal amount of the Certificate so surrendered.

(c) The principal of the Certificates and the dividends payable thereon shall be payable by the Trustee only from and out of such sums of money as shall be paid to or deposited with it by way of rentals payable hereunder, or out of moneys otherwise received by the Trustee applicable to such payments under the terms of this Agreement. If there shall be deposited with the Trustee for application in payment of Certificates and dividends thereon, on or before the due date thereof, the amount of the principal due upon all Certificates next becoming due together with all dividends accrued to such date of maturity, all dividends upon such Certificates shall cease on said due date; but otherwise dividends at the rate aforesaid shall continue to become due and payable upon such Certificates until the principal amount thereof with accrued dividends shall have been paid to or deposited with the Trustee, or otherwise realized by the Trustee as above set forth, but shall be payable only out of funds so paid to, deposited with or realized by the Trustee.

SECTION 1.02. The Certificates and the guaranty to be endorsed thereon by the Company, as hereinafter provided, shall be in substantially the following forms:

*(Form of Equipment and Collateral Trust Certificate,  
10½% Dividend—Fully Registered)*

Number R..... \$.....

NORTH AMERICAN CAR CORPORATION  
EQUIPMENT AND COLLATERAL TRUST CERTIFICATE  
SECOND 1970 SERIES

Dividends at the Rate of 10½% Per Annum

Harris Trust and Savings Bank, *Trustee*

Principal Due August 15, 1985

Harris Trust and Savings Bank, Trustee under an Agreement dated as of August 15, 1970, between Harris Trust and Savings Bank, Trustee, and North American Car Corporation, hereby certifies that ....., or registered assigns, is entitled to an interest of \$..... in North American Car Corporation Equipment and Collateral Trust, Second 1970 Series, payable on August 15, 1985,



and to dividends thereon at the rate of 10½% per annum, from the date hereof until the principal amount hereof shall become due and payable, payable on the fifteenth day of February and of August in each year commencing February 15, 1971, with interest on unpaid principal and dividends at the rate of 12% per annum. Said principal and dividends are payable, however, only from and out of rentals, when and as received by the Trustee, under said Agreement, and from and out of such moneys received by the Trustee as may be applicable thereto under the terms of said Agreement.

The certificates are subject to redemption in part at a redemption price equal to the principal amount redeemed and dividends accrued thereon to the redemption date, in the manner and upon the terms set forth in said Agreement, pursuant to a sinking fund to retire \$473,215 each August 15, 1971 to 1984, as provided for in said Agreement.

This certificate is one of an issue of certificates, limited in aggregate principal amount to \$7,100,000, similar except as to principal amount and serial numbers, all issued in fully registered form under said Agreement under which the cars therein called "Trust Equipment" (or Deposited Cash in lieu thereof, as provided in said Agreement), and the Indenture of Guarantee (as referred to in said Agreement) together with certain security therefor, are held by the Trustee in trust for the equal benefit of the holders of the interests represented by said certificates, to which Agreement, filed with the Trustee, reference is hereby made for a further statement of the rights of the holder hereof and the rights and obligations of North American Car Corporation and of the Trustee.

This certificate is transferable by the registered holder hereof in person or by attorney duly authorized in writing on registration books to be kept for that purpose at the corporate trust office of the Trustee in Chicago, Illinois, upon surrender and cancellation of this certificate, and thereupon a new certificate or certificates for the then unpaid aggregate principal amount, of like maturity and bearing a like rate of dividend, will be issued to the transferee in exchange herefor, in the manner provided in the aforesaid Agreement.

In case of default in the performance or observance of any of the covenants of North American Car Corporation in said Agree-

### ARTICLE III

#### LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 3.01. The Trustee does hereby lease to the Company all of the Trust Equipment of the North American Car Corporation Equipment and Collateral Trust, Second 1970 Series, which Trust Equipment is more fully described as follows:

Number	Description	Builder	Estimated Total Cost
50	Class LU 70-ton All Door cars. Serial Numbers 4301 to 4350, both inclusive.	Thrall Car Manufacturing Company	\$ 1,150,000.00
20	Class LO 100-ton 4,180 cubic foot capacity covered hopper cars. Serial Numbers 90210 to 90229, both inclusive.	General American Transportation Corporation	437,050.95
5	Class LO 100-ton 5,650 cubic foot capacity covered hopper cars. Serial Numbers 56500 to 56504, both inclusive.	Pullman-Standard Division of Pullman Incorporated	100,290.61
98	Class LO 100-ton 4,427 cubic foot capacity covered hopper cars. Serial Numbers 47500 to 47537, both inclusive, 47539 to 47563, both inclusive, 47565 to 47599, both inclusive.	North American Car Corporation	1,679,495.23
29	Class 111A 100W1 100-ton 20,000 gallon capacity tank cars. Serial Numbers 8229 to 8246, both inclusive, and 23462 to 23472, both inclusive.	North American Car Corporation	592,029.53
15	Class 111A 100W1 100-ton 30,000 gallon capacity tank cars. Serial Numbers 29960 to 29974, both inclusive.	North American Car Corporation	275,380.07

Number	Description	Builder	Estimated Total Cost
141	Class 112A 340W 100-ton 34,000 gallon capacity tank cars. Serial Numbers 34476 to 34533, both inclusive, and 34621 to 34703, both inclu- sive.	North American Car Corporation	2,877,530.02
			<u>\$ 7,111,776.41</u>

As and when the Trust Equipment shall from time to time be transferred and delivered to the Trustee, the same shall be delivered to the Company at such point or points as such cars may be at the time they are delivered to the Trustee, and shall upon such delivery *ipso facto*, and without further action, become subject to all the provisions hereof, and be deemed a portion of the Trust Equipment leased by the Trustee to the Company hereunder in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

SECTION 3.02. The Company accepts the lease of all the Trust Equipment and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment as hereinbefore provided; and the Company covenants and agrees to pay the Trustee or its assigns, in lawful money of the United States, rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same become due and payable:

(a) all expenses incurred by the Trustee hereunder, all liability incurred by it as owner of said Trust Equipment or in respect of the Collateral or by reason of its acting as Trustee hereunder, and all proper compensation for its services hereunder;

(b) any and all taxes, licenses and assessments imposed on or against said Trust Equipment or in respect of the Collateral, or the income therefrom, and all other taxes and governmental charges for which the Trustee may be liable, except any such taxes as shall have been paid by or on behalf of the Company to the proper taxing authority;

(c) the dividends payable in respect of the Certificates, when and as the same shall become payable, with interest at the rate stated in the Certificates on any unpaid dividends; and

(d) the principal of the Certificates when and as the same shall become payable in whole or in part, whether by declaration or

otherwise or upon maturity or redemption thereof, with interest at the rate stated in the Certificates on any unpaid principal.

The Company shall not be required, however, to pay any tax, assessment or governmental charge so long as the Company shall in good faith and by appropriate legal proceedings contest the validity thereof and give notice thereof to the Trustee, unless thereby, in the judgment of the Trustee, the rights or interests of the Trustee or of the Certificate holders may be materially endangered.

SECTION 3.03. The lease shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet, discharge and cancel all the interests in said North American Car Corporation Equipment and Collateral Trust, Second 1970 Series, created in respect of the Certificates, and the dividends thereon, as well as the other payments and charges aforesaid. At the termination of the lease, and after all such payments shall have been fully made to the Trustee, the Trust Equipment hereby leased, and then subject hereto, shall be assigned and transferred by appropriate bill or bills of sale, but without warranty of any kind or character other than against acts of the Trustee, by the Trustee to the Company or its nominee or nominees, and shall be and become the absolute property of the Company or its nominee or nominees; provided, however, and it is agreed, that until then the title to none of the Trust Equipment shall pass to or vest in the Company except as permitted by this agreement, but title to and ownership of all the Trust Equipment and all rights to and interest in said Trust Equipment, excepting only possession and use thereof under the lease and, subject to the provisions of Section 3.05, the right to the income therefrom, shall be reserved to and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by the Company.

SECTION 3.04. Within six months after the date hereof, all plates or marks on any of the cars constituting the original Trust Equipment which might be construed as claims of ownership thereof by anyone, other than the Trustee, shall be removed and there shall be plainly, distinctly, and conspicuously set forth upon each side of each car by means of a stencil or affixed metal plate, the following words in letters not less than three-eighths of one inch in height:

"TITLE TO THIS CAR IS VESTED IN A TRUSTEE UNDER THE TERMS OF AN EQUIPMENT TRUST AGREEMENT RECORDED UNDER SECTION 20c OF THE INTERSTATE COMMERCE ACT."

In case, during the continuance of the lease, any of such stencils or plates shall at any time be removed, defaced or destroyed the Company shall promptly cause the same to be restored. The Company shall not change, or permit to be changed, the marking and numbers upon Trust Equipment covered by the lease (nor any marking or numbers upon the Trust Equipment which may be substituted as herein provided), unless the Trustee and the Company execute and deliver such further instrument or instruments as shall be required by counsel for the Trustee, which said instrument or instruments shall be forthwith recorded or filed by the Company as directed by the Trustee.

The Trust Equipment may also be lettered "North American Car Corporation, Lessee," for convenience of identification of the leasehold interests of the Company therein. The word "Lessee" shall be in clear letters, plainly visible, but the letters may be smaller than the letters in the name North American Car Corporation, and the Trust Equipment or any portion thereof may also be labeled with the name, initials and/or trademark of any sublessee to which the Trust Equipment or a portion thereof may be sublet as provided in Section 3.05, but the Company shall not allow the name of any person, association or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by any person other than the Trustee.

**SECTION 3.05.** The Company has entered into lease agreements with other parties to which the Trust Equipment is or may be subjected, and certain of the Trust Equipment is now in the service of various shippers and railroads pursuant to the terms of such lease agreements. The Company hereby assigns to the Trustee all of its right, title and interest in and to such existing lease agreements, including its right to receive and collect all payments due and to become due thereunder. The Trustee hereby appoints the Company as its agent, and the Company hereby accepts such appointment, to collect and receive all payments due and to become due under said lease agreements.

Certain of the Trust Equipment (namely cars bearing Serial Numbers 34621 to 34637, both inclusive) is subject to purchase options in favor of lessees thereof. The Company covenants and agrees that, should any of such options be exercised, the Company will replace the cars covered by such options in accordance with the provisions of Section 3.06 and the Trustee shall promptly release and sell or cause to be sold any such Trust Equipment upon the written request of the Company signed by its President or one of its Vice Presidents.

The Company may also sublet from time to time all or any part of the Trust Equipment, and any substitutions or replacements thereof, but only upon the condition that any such sublease shall not affect, or be construed to affect, any of the duties or obligations of the Company hereunder, or the rights or remedies of the Trustee hereunder, and upon the further condition that upon default by the Company in the performance or observance of any of the covenants or conditions contained in this Agreement which are to be performed or observed by the Company, the Trustee may at its option and shall, if requested by the holders of not less than 25% in principal amount of the then outstanding Certificates, terminate such sublease.

For the purpose of enabling the Company to meet the transportation requirements of present and future sublessees, the Company may from time to time make, or cause to be made, changes and alterations in the design, structure and equipment of any of the cars constituting a part of the Trust Equipment, all at the expense of the Company.

**SECTION 3.06.** The Company covenants and agrees with the Trustee as follows:

(a) The Company will cause all of the Trust Equipment to be maintained in good order and repair, at its own cost, and will promptly cause to be replaced, at its own cost, any of the Trust Equipment that may be destroyed, by other cars of aggregate fair market value or cost to the Company, whichever is lower, equal to the aggregate fair market value, immediately prior to the destruction, of the cars replaced.

It being in the interest of the parties hereto that any of the Trust Equipment which in any respect shall have become unsuitable or unnecessary for the use of the Company may be released and sold, it is hereby agreed that at any time hereafter until title thereto shall be conveyed to the Company, the Trustee shall promptly release and sell or cause to be sold any such Trust Equipment upon the written request of the Company signed by its President or one of its Vice Presidents, accompanied by a certified copy of a resolution of its Board of Directors or the Executive Committee thereof, authorizing such request. Such request shall describe the cars to be released, recite that they have become unsuitable or unnecessary for the use of the Company, state the selling price thereof and specify the original cost and the fair market value

### ARTICLE III

#### LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 3.01. The Trustee does hereby lease to the Company all of the Trust Equipment of the North American Car Corporation Equipment and Collateral Trust, Second 1970 Series, which Trust Equipment is more fully described as follows:

Number	Description	Builder	Estimated Total Cost
50	Class LU 70-ton All Door cars. Serial Numbers 4301 to 4350, both inclusive.	Thrall Car Manufacturing Company	\$ 1,150,000.00
20	Class LO 100-ton 4,180 cubic foot capacity covered hopper cars. Serial Numbers 90210 to 90229, both inclusive.	General American Transportation Corporation	437,050.95
5	Class LO 100-ton 5,650 cubic foot capacity covered hopper cars. Serial Numbers 56500 to 56504, both inclusive.	Pullman-Standard Division of Pullman Incorporated	100,290.61
98	Class LO 100-ton 4,427 cubic foot capacity covered hopper cars. Serial Numbers 47500 to 47537, both inclusive, 47539 to 47563, both inclusive, 47565 to 47599, both inclusive.	North American Car Corporation	1,679,495.23
29	Class 111A 100W1 100-ton 20,000 gallon capacity tank cars. Serial Numbers 8229 to 8246, both inclusive, and 23462 to 23472, both inclusive.	North American Car Corporation	592,029.53
15	Class 111A 100W1 100-ton 30,000 gallon capacity tank cars. Serial Numbers 29960 to 29974, both inclusive.	North American Car Corporation	275,380.07

Number	Description	Builder	Estimated Total Cost
141	Class 112A 340W 100-ton 34,000 gallon capacity tank cars. Serial Numbers 34476 to 34533, both inclusive, and 34621 to 34703, both inclu- sive.	North American Car Corporation	2,877,530.02
			<u>\$ 7,111,776.41</u>

As and when the Trust Equipment shall from time to time be transferred and delivered to the Trustee, the same shall be delivered to the Company at such point or points as such cars may be at the time they are delivered to the Trustee, and shall upon such delivery *ipso facto*, and without further action, become subject to all the provisions hereof, and be deemed a portion of the Trust Equipment leased by the Trustee to the Company hereunder in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

SECTION 3.02. The Company accepts the lease of all the Trust Equipment and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment as hereinbefore provided; and the Company covenants and agrees to pay the Trustee or its assigns, in lawful money of the United States, rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same become due and payable:

(a) all expenses incurred by the Trustee hereunder, all liability incurred by it as owner of said Trust Equipment or in respect of the Collateral or by reason of its acting as Trustee hereunder, and all proper compensation for its services hereunder;

(b) any and all taxes, licenses and assessments imposed on or against said Trust Equipment or in respect of the Collateral, or the income therefrom, and all other taxes and governmental charges for which the Trustee may be liable, except any such taxes as shall have been paid by or on behalf of the Company to the proper taxing authority;

(c) the dividends payable in respect of the Certificates, when and as the same shall become payable, with interest at the rate stated in the Certificates on any unpaid dividends; and

(d) the principal of the Certificates when and as the same shall become payable in whole or in part, whether by declaration or



otherwise or upon maturity or redemption thereof, with interest at the rate stated in the Certificates on any unpaid principal.

The Company shall not be required, however, to pay any tax, assessment or governmental charge so long as the Company shall in good faith and by appropriate legal proceedings contest the validity thereof and give notice thereof to the Trustee, unless thereby, in the judgment of the Trustee, the rights or interests of the Trustee or of the Certificate holders may be materially endangered.

SECTION 3.03. The lease shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet, discharge and cancel all the interests in said North American Car Corporation Equipment and Collateral Trust, Second 1970 Series, created in respect of the Certificates, and the dividends thereon, as well as the other payments and charges aforesaid. At the termination of the lease, and after all such payments shall have been fully made to the Trustee, the Trust Equipment hereby leased, and then subject hereto, shall be assigned and transferred by appropriate bill or bills of sale, but without warranty of any kind or character other than against acts of the Trustee, by the Trustee to the Company or its nominee or nominees, and shall be and become the absolute property of the Company or its nominee or nominees; provided, however, and it is agreed, that until then the title to none of the Trust Equipment shall pass to or vest in the Company except as permitted by this agreement, but title to and ownership of all the Trust Equipment and all rights to and interest in said Trust Equipment, excepting only possession and use thereof under the lease and, subject to the provisions of Section 3.05, the right to the income therefrom, shall be reserved to and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by the Company.

SECTION 3.04. Within six months after the date hereof, all plates or marks on any of the cars constituting the original Trust Equipment which might be construed as claims of ownership thereof by anyone, other than the Trustee, shall be removed and there shall be plainly, distinctly, and conspicuously set forth upon each side of each car by means of a stencil or affixed metal plate, the following words in letters not less than three-eighths of one inch in height:

"TITLE TO THIS CAR IS VESTED IN A TRUSTEE UNDER THE TERMS OF AN EQUIPMENT TRUST AGREEMENT RECORDED UNDER SECTION 20c OF THE INTERSTATE COMMERCE ACT."

In case, during the continuance of the lease, any of such stencils or plates shall at any time be removed, defaced or destroyed the Company shall promptly cause the same to be restored. The Company shall not change, or permit to be changed, the marking and numbers upon Trust Equipment covered by the lease (nor any marking or numbers upon the Trust Equipment which may be substituted as herein provided), unless the Trustee and the Company execute and deliver such further instrument or instruments as shall be required by counsel for the Trustee, which said instrument or instruments shall be forthwith recorded or filed by the Company as directed by the Trustee.

The Trust Equipment may also be lettered "North American Car Corporation, Lessee," for convenience of identification of the leasehold interests of the Company therein. The word "Lessee" shall be in clear letters, plainly visible, but the letters may be smaller than the letters in the name North American Car Corporation, and the Trust Equipment or any portion thereof may also be labeled with the name, initials and/or trademark of any sublessee to which the Trust Equipment or a portion thereof may be sublet as provided in Section 3.05, but the Company shall not allow the name of any person, association or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by any person other than the Trustee.

**SECTION 3.05.** The Company has entered into lease agreements with other parties to which the Trust Equipment is or may be subjected, and certain of the Trust Equipment is now in the service of various shippers and railroads pursuant to the terms of such lease agreements. The Company hereby assigns to the Trustee all of its right, title and interest in and to such existing lease agreements, including its right to receive and collect all payments due and to become due thereunder. The Trustee hereby appoints the Company as its agent, and the Company hereby accepts such appointment, to collect and receive all payments due and to become due under said lease agreements.

Certain of the Trust Equipment (namely cars bearing Serial Numbers 34621 to 34637, both inclusive) is subject to purchase options in favor of lessees thereof. The Company covenants and agrees that, should any of such options be exercised, the Company will replace the cars covered by such options in accordance with the provisions of Section 3.06 and the Trustee shall promptly release and sell or cause to be sold any such Trust Equipment upon the written request of the Company signed by its President or one of its Vice Presidents.

The Company may also sublet from time to time all or any part of the Trust Equipment, and any substitutions or replacements thereof, but only upon the condition that any such sublease shall not affect, or be construed to affect, any of the duties or obligations of the Company hereunder, or the rights or remedies of the Trustee hereunder, and upon the further condition that upon default by the Company in the performance or observance of any of the covenants or conditions contained in this Agreement which are to be performed or observed by the Company, the Trustee may at its option and shall, if requested by the holders of not less than 25% in principal amount of the then outstanding Certificates, terminate such sublease.

For the purpose of enabling the Company to meet the transportation requirements of present and future sublessees, the Company may from time to time make, or cause to be made, changes and alterations in the design, structure and equipment of any of the cars constituting a part of the Trust Equipment, all at the expense of the Company.

**SECTION 3.06.** The Company covenants and agrees with the Trustee as follows:

(a) The Company will cause all of the Trust Equipment to be maintained in good order and repair, at its own cost, and will promptly cause to be replaced, at its own cost, any of the Trust Equipment that may be destroyed, by other cars of aggregate fair market value or cost to the Company, whichever is lower, equal to the aggregate fair market value, immediately prior to the destruction, of the cars replaced.

It being in the interest of the parties hereto that any of the Trust Equipment which in any respect shall have become unsuitable or unnecessary for the use of the Company may be released and sold, it is hereby agreed that at any time hereafter until title thereto shall be conveyed to the Company, the Trustee shall promptly release and sell or cause to be sold any such Trust Equipment upon the written request of the Company signed by its President or one of its Vice Presidents, accompanied by a certified copy of a resolution of its Board of Directors or the Executive Committee thereof, authorizing such request. Such request shall describe the cars to be released, recite that they have become unsuitable or unnecessary for the use of the Company, state the selling price thereof and specify the original cost and the fair market value

thereof at the time of such request. No sale of any of the Trust Equipment shall be made for less than the fair market value thereof at the time of sale unless the Company shall deposit with the Trustee the difference between the sales price thereof and such fair market value. The proceeds of any such sale or sales shall, pending replacement of such Trust Equipment, be deposited with or paid to the Trustee in trust for the benefit of the holders of the Certificates. The rights and remedies of the Trustee to enforce or to recover any of the rent hereunder shall not be affected by any such sale and release. Any moneys paid to or deposited with the Trustee pursuant to this paragraph shall, upon the written request of the Company, signed by its President or one of its Vice Presidents, be paid by the Trustee to or upon the order of the Company against the delivery to the Trustee of other cars of aggregate fair market value or cost to the Company, whichever is lower, at least equal to the aggregate fair market value of the cars replaced.

The title to all cars procured for replacement or added pursuant to the provisions of Section 2.02 shall be taken in the name of the Trustee, free from all liens and encumbrances (other than any leasehold interest therein), and all cars so procured shall be marked in accordance with the provisions of Section 3.04. At the time of every such replacement or addition the Company shall deliver to the Trustee a certificate of the Company signed by its President or one of its Vice Presidents stating the fair market value (as aforesaid) of the Trust Equipment so destroyed or released and the cost and the fair market value of such replacement or addition. The Company shall also furnish the Trustee with a certificate as to delivery and either stating that the cars have been marked in accordance with the provisions of Section 3.04 or undertaking to cause the cars to be so marked with reasonable promptness, a bill or bills of sale from the seller and an opinion of counsel in like manner as is provided in Section 2.02 and a certificate of an agent or agents designated by the Trustee for that purpose (who may be officers or employees of the Company) stating that delivery of such cars to such agent of the Trustee has been made. Any cars so acquired and substituted or added shall immediately be part of the Trust Equipment, subject to all the terms and conditions hereof in all respects as though they had been part of the original Trust Equipment herein described, and the Company and the Trustee shall execute a supplemental lease thereof, describing the same, upon and subject to all the terms and conditions hereof.

(b) The Company will furnish to the Trustee, at least once in every year, a statement, signed by its President or by one of its Vice Presidents, of the amount, description and numbers of all cars leased hereunder that may have been destroyed by accident or otherwise during such year and stating that all other cars then constituting a part of the Trust Equipment are in existence and in interchange condition. Together with said statement the Company shall also furnish to the Trustee a statement similarly signed, stating that in the case of all of the Trust Equipment repainted during the preceding year, the marking required by Section 3.04 has been preserved, or that the Trust Equipment when repainted has again been marked as required by said Section. The Trustee shall have the right to inspect the Trust Equipment once in every year during the continuance of the lease but shall not be obligated so to do.

(c) Notwithstanding the termination hereof, the Company will hold the Trustee harmless against any and all claims in any way arising out of or through the operation of the Trust Equipment, or any portion thereof, and will indemnify and protect the Trustee in the use of any and all patented inventions employed in and about the Trust Equipment and will comply in all respects with the laws of the United States and of all the states and other jurisdictions in which the Trust Equipment or any part thereof may be operated and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission, and of all other commissions, boards and other legislative, executive or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment; provided, however, that upon giving notice thereof to the Trustee, the Company may in good faith contest the validity of any such act, rule, regulation or order or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the holders of the Certificates.

(d) The Company will, without in any way limiting the generality of subdivision (c) of this Section 3.06, make or cause to be made all repairs and changes in the Trust Equipment in order to make the Trust Equipment acceptable for interchange in accordance with general railroad rules and regulations; provided, however, that, upon giving notice thereof to the Trustee, the Company

may in good faith contest the validity of any such rules or regulations or the applicability thereof to the Trust Equipment or any part thereof in any reasonable manner which will not, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the holders of the Certificates.

(e) During the continuance of the lease, the Company will keep in effect its present or equivalent policies of insurance whereby the Company is insured against loss or damage, the risk of which is customarily insured against by railroad companies, of or to all cars owned or leased by the Company up to at least the replacement values as established by the Association of American Railroads. The aggregate of such replacement values as to the Trust Equipment will equal or exceed the aggregate depreciated value of the Trust Equipment current from time to time. The Company will pay the premiums of such insurance and deliver to the Trustee, at least once in every year, a certificate, signed by its President or by one of its Vice Presidents, stating that such insurance is in effect and naming the insurer or insurers. If the Company shall fail to maintain such insurance, the Trustee may (but shall be under no obligation so to do) cause the Trust Equipment to be insured in such amount as the Trustee shall deem advisable for the protection of the holders of the Certificates and may demand and recover from the Company, as rental hereunder, the premium on such insurance plus any financing expense incurred by the Trustee in order to pay such premium. In case the Company fails to make and maintain such insurance and the Trustee insures the Trust Equipment or any part thereof as above provided, the title to the Trust Equipment shall, notwithstanding the making of all other payments hereunder to be made by the Company, remain in the Trustee until the repayment of the amount so paid for insurance with any financing expense, as aforesaid, and the repayment of such amount is hereby expressly made one of the obligations to be performed before title to the Trust Equipment shall vest in the Company.

Any insurance moneys paid to the Trustee on account of any loss in respect of the Trust Equipment covered by insurance effected by the Trustee shall be held and retained by the Trustee in trust for the equal and proportionate benefit of the holders of the Certificates, until the replacement or repair, as provided in subdivision (a) of this Section 3.06, of the Trust Equipment covered by such

insurance. Upon proof satisfactory to the Trustee of the proper replacement or repair of said Trust Equipment, said insurance or other moneys received by the Trustee shall be applied by the Trustee to the payment of the cost of such replacement or repair or to reimburse the Company, to the extent of such funds, for payments made by it in respect of such replacement or repair. A certificate in behalf of the Company by its President or one of its Vice Presidents as to the proper replacement or repair of said Trust Equipment, free from lien and encumbrance, shall be full and complete protection to the Trustee.

**SECTION 3.07.** The Company, so long as it shall not be in default hereunder, shall be entitled to the possession of the Trust Equipment and to use the same upon the railroad lines of public carriers in the United States of America, Canada and Mexico in the usual interchange of traffic, from and after the delivery of the Trust Equipment by the Trustee to the Company, but only upon and subject to all the terms and conditions hereof, and may permit the Trust Equipment or any part thereof to be so used by any railroad company or shipper or other person and may receive compensation for such use from the company or shipper or other person so using any part of the Trust Equipment; provided, however, that the right to such use shall be subject to all the terms and conditions hereof.

**SECTION 3.08.** Except as permitted by the provisions of Section 3.05 and Section 8.05, the Company will not either assign or transfer the lease, or transfer the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Company shall not, without such written consent, except as hereinbefore provided, part with the control of, or allow to pass out of its control, any of the Trust Equipment.

#### **ARTICLE IV**

##### **THE COLLATERAL**

**SECTION 4.01.** The Company covenants and agrees that it will cause the Canadian Subsidiary to deposit and pledge with the Trustee, under the Agreement of Pledge, the Pledged Bonds, consisting of \$1,773,559 aggregate principal amount of Demand Equipment Bonds issued by the Canadian Subsidiary under a Deed of Trust and Mortgage constituting a first mortgage lien upon certain cars of the Canadian Sub-

sidiary therein described. The Pledged Bonds shall be delivered to the Trustee in such form that the same shall be transferable and deliverable by the Trustee. The Trustee may in its discretion cause the Pledged Bonds to be registered in its name or in the name of its nominee or nominees.

SECTION 4.02. The Trustee may at all times take such steps as in its discretion it shall deem advisable to protect its interests and the interests of the holders of the Certificates in respect of the Pledged Bonds and the other Collateral and, subject only to the specific restrictions contained in the Agreement of Pledge, the Trustee shall have and may exercise all the rights of owner in respect of the Pledged Bonds.

## ARTICLE V

### CERTAIN COVENANTS OF THE COMPANY

SECTION 5.01. The Company hereby accepts and becomes bound **by all the terms of this Agreement, and hereby covenants and agrees to make payment of the reasonable compensation of and expenses incurred by the Trustee hereunder, and of all taxes, assessments or other governmental charges for which the Trustee may be liable hereunder and all liabilities incurred by the Trustee hereunder.**

SECTION 5.02. The Company covenants and agrees and unconditionally guarantees that the registered holders of each of the Certificates then outstanding shall receive the principal sum specified in each of such then outstanding Certificates in lawful money of the United States of America, when and as the same shall become due and payable, whether at the maturity thereof or upon earlier redemption or by declaration or otherwise (and, if any such principal is not so paid, with interest thereon from the date when the same so became due and payable at the rate of 12% per annum, payable semiannually, until paid), and shall receive dividends on the principal sum specified in each such Certificate in like lawful money at the rate specified in such Certificate from the date thereof to the date when the same shall become due and payable, whether at the maturity thereof or upon earlier redemption or by declaration or otherwise (and if any such dividend is not paid when due, with interest thereon at the rate of 12% per annum, payable semiannually, until paid), and at the times and places and otherwise as expressed in the Certificates.

SECTION 5.03. The Company covenants and agrees that it will pay or cause to be paid or discharged, or make adequate provision for the satisfaction or discharge of, any claim, which, if unpaid, might be-



come a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Company therein, or upon or against any of the Pledged Bonds; but this provision shall not require the payment of any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings and notice thereof given to the Trustee, unless thereby in the judgment of the Trustee the rights or interests of the Trustee or of the Certificate holders may be materially endangered.

SECTION 5.04. The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Certificates and also connected with the preparation, execution, recording, registration and filing hereof and of any instruments executed under the provisions hereof in respect to the Trust Equipment, or any equipment or parts used to replace any of the same. Promptly after the execution hereof, the Company will cause copies of this Agreement to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and the regulations promulgated pursuant thereto. The Company will also cause any supplemental lease entered into pursuant to Section 3.06 hereof to be so filed and recorded and registered promptly after the execution thereof.

SECTION 5.05. The Company covenants and agrees promptly after the cars constituting the original Trust Equipment shall have been marked in accordance with the provisions of Section 3.04 and in any event on or before six months after the date hereof to deliver to the Trustee a certificate of the agent or agents (who may be employees of the Company) designated by the Trustee to receive delivery of the Trust Equipment stating that such cars have been marked in accordance with the provisions of Section 3.04.

SECTION 5.06. The Company covenants and agrees that, subject to the provisions of Section 8.05, it will at all times maintain its corporate existence and that from time to time it will do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

SECTION 5.07. The Company covenants that it will make payment of the rentals on account of the Trust Equipment as provided in this Agreement, notwithstanding that any of the Certificates shall have been acquired by the Company.

of the Certificates, any right, remedy or claim, under or by reason of this Agreement, or any term, covenant or condition thereof, and all of the terms, covenants, conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Certificates.

SECTION 8.07. Whenever, under the provisions hereof, it is necessary or proper or desired for any notice or demand to be made to or upon the Company, such notice or demand may be given or made to the Company by depositing a written statement thereof in the United States mail postpaid, directed to the Company at Chicago, Illinois, and an affidavit by any person representing or acting on behalf of the Trustee as to such mailing shall be conclusive evidence of the giving of such notice and the making of such demand.

SECTION 8.08. This Agreement may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

SECTION 8.09. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Company and the Trustee, pursuant to due corporate authority, have caused this Agreement to be signed in their respective corporate names by their respective officers thereunto duly authorized, and their respective corporate seals to be hereunto affixed and duly attested, as of the day and year first above written.

NORTH AMERICAN CAR CORPORATION

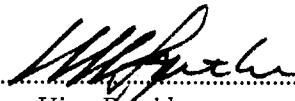
By  .....  
Chairman of the Board


(CORPORATE SEAL)

Attest:  .....  
Secretary

(CORPORATE SEAL)

HARRIS TRUST AND SAVINGS BANK,  
*Trustee*

By .....  .....  
*Vice President*

Attest: .....  .....  
*Assistant Secretary*

sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to bid at any such sale. Upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company for the rent or use of the Trust Equipment or any of it shall, in case of the happening of any Event of Default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of interests hereunder. No such taking possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 3.02 (other than dividends or interest not then accrued), whether or not they shall have then matured. The holders of a majority in principal amount of the then outstanding Certificates shall have the right from time to time to direct which of the proceedings above provided for shall be taken for the enforcement of the remedies contained herein.

SECTION 6.03. In case of the happening of any Event of Default (whether or not the principal of the Certificates shall have been declared due, and either before or after the exercise of any other specific remedy in this Article provided), the Trustee may, and upon being requested in writing by the holders of not less than 25% in principal amount of the Certificates then outstanding, and upon being indemnified to its satisfaction against costs and expenses which may be incurred by acting in pursuance of such request, and upon being furnished with an opinion of its counsel, that it is proper for it so to do, shall, in its discretion, either,

(a) proceed to exercise its rights, remedies, powers, privileges, security and recourses in respect of the Collateral in such manner as the Trustee may think proper or expedient; or

(b) proceed to protect and to enforce its right and the rights of the holders of the Certificates by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein or in the Indenture of Guarantee or Agreement of Pledge granted, or for the sale of the Pledged Bonds under the judgment or decree of any court or courts of competent jurisdiction, or for the enforcement of any other appropriate legal or equitable remedy as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of its rights or duties hereunder.

SECTION 6.04. If, in case of the happening of any Event of Default, the Trustee shall exercise any of the powers conferred upon it by this Article, all payments made by the Company to the Trustee hereunder after such Event of Default, and the proceeds of any judgment collected from the Company by the Trustee hereunder, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment, and all sums received by the Trustee in respect of the Collateral, together with any other sums which may then be held by the Trustee under any of the provisions hereof, shall be applied by the Trustee to the payment in the following order of priority: (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement, and (b) of accrued and unpaid dividends and of the principal of all the outstanding Certificates, with interest on overdue dividends and principal at the rate stated in the Certificates, whether such Certificates shall have then matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then pro rata without preference between principal and dividends.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all such sums of money realized by the Trustee as aforesaid there shall remain any amount due to the Trustee under the provisions hereof, the Company agrees to pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee there shall

remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

SECTION 6.05. If at any time after the principal of all the Certificates shall have been declared and have become due and payable, or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as in Section 6.01 provided, but before August 15, 1985, all arrears of rent (with interest at the rate of 12% per annum upon any overdue installments), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal of Certificates and any other rental installments which shall not at the time have matured according to their terms) shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment or Pledged Bonds and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested by the holders of not less than a majority in principal amount of the Certificates then outstanding and which shall not have matured (other than by declaration) according to their terms, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 6.06. No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof or sale of the Pledged Bonds, nor any action or failure or omission to act against the Company or in respect to the Trust Equipment or the Collateral on the part of the Trustee or on the part of the holder of any Certificate, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company hereunder or under the guaranty endorsed on the Certificates. The Company hereby waives presentation and demand in respect of any of the Certificates and waives notice of presentation, of demand and of any default in the payment of the principal of and dividends upon the Certificates. The Trustee may at any time upon notice in writing to the Company apply to any court of competent jurisdiction for instructions as to the application and distribution of the property held by it.

SECTION 6.07. In case the Trustee shall demand possession of the Trust Equipment pursuant to the provisions hereof, and shall reasonably designate a point or points for the delivery of the Trust Equipment to it, the Company shall at its own expense forthwith and in the usual manner cause the Trust Equipment to be moved to such point or points as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee, or the Trustee may at its option keep the Trust Equipment on any of the lines of railroads or premises of the Company until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage the necessary facilities at any convenient point or points selected by the Trustee. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

SECTION 6.08. The Trustee is hereby irrevocably appointed special agent and representative of the holders of the Certificates and vested with full power in their behalf to effect and enforce this Agreement for their benefit as provided herein; but anything in this Agreement contained to the contrary notwithstanding, the holders of not less than a majority in principal amount of the Certificates then outstanding shall have the right from time to time, if they so elect and manifest such election by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct and control the method and place of conducting any and all proceedings for any sale of the Trust Equipment or with respect to the Collateral, or any adjournment thereof, or for the appointment of a receiver or for any other action or proceeding hereunder, provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Agreement, but they shall have no right to involve the Trustee in any personal liability of any kind to anybody without first and from time to time indemnifying it to its satisfaction.

SECTION 6.09. No holder of any Certificate shall have the right to institute any suit, action or proceeding at law or in equity, or any special or other statutory proceeding, upon or in respect of this Agreement, or for the execution of any trust or power hereof, or for any other remedy under this Agreement, unless such holder shall previously have given to

the Trustee written notice of the happening of an Event of Default, nor unless the holders of not less than 25% in principal amount of the Certificates then outstanding shall have made written request upon the Trustee and shall have afforded to it reasonable opportunity either to proceed itself to exercise the powers herein granted, or to institute such action, suit or proceedings in its own name, and the Trustee shall have refused or neglected either to comply with such request within a reasonable time thereafter or to take other appropriate proceedings for the enforcement of this Agreement, it being understood and intended that all proceedings hereunder shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all holders of outstanding Certificates.

SECTION 6.10. The remedies in this Agreement provided in favor of the Trustee and the holders of the Certificates, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity.

## ARTICLE VII

### COVENANTS, RIGHTS AND DUTIES OF THE TRUSTEE

SECTION 7.01. The Trustee covenants and agrees to apply and distribute the rentals received by it under subparagraphs (a), (b), (c) and (d) of Section 3.02, if, when and as the same shall be received, for the following purposes, to wit: (a) to the payment of all expenses incurred by the Trustee under this Agreement, and all liability incurred by it as owner of the Trust Equipment or in respect of the Collateral or by reason of its acting as Trustee hereunder, and proper compensation for its services hereunder; (b) to the payment of any and all taxes, licenses and assessments imposed on or against said Trust Equipment or in respect of the Collateral, or the income therefrom, and all other taxes and governmental charges for which the Trustee may be liable, except any such taxes as shall have been paid by or on behalf of the Company to the proper taxing authority; (c) to the payment of the dividends payable in respect of the Certificates when and as the same shall become payable according to the terms thereof and hereof; (d) to the payment of the principal of the Certificates when and as the same shall become payable according to the terms thereof or hereof; and (e) to the payment of interest on any unpaid dividends or principal at the rate stated in the Certificates.



Nothing herein or in the Certificates contained shall be deemed to impose on the Trustee or on the Company any obligations to pay to the holder of any Certificate any amount required by any law of the United States of America or of any state or subdivision thereof to be withheld from the amount payable to the registered owner of any Certificate.

SECTION 7.02. The Trustee shall cause to be kept at its office in Chicago, Illinois, books for the registration and transfer of the Certificates and upon presentation for such purpose the Trustee will register or cause the Certificates to be registered as hereinbefore provided, and under such reasonable regulations as it may prescribe.

SECTION 7.03. The Trustee hereby accepts the trusts imposed upon it by this Agreement subject to the terms hereof, including the following express terms and conditions:

(a) The Trustee assumes no liability for anything other than its own wilful misconduct or gross negligence. Without limiting the generality of the foregoing, the Trustee assumes no responsibility for (i) the validity or legal effect of this Agreement or of the Collateral or the sufficiency of title to or the value of the Trust Equipment, (ii) any recital, statement or representation herein or in the Certificates contained, or in any instrument delivered to the Trustee pursuant to the provisions hereof, (iii) the sufficiency of the rentals payable hereunder or for the payment of the Certificates or dividends thereon unless furnished with funds therefor, (iv) the recording of this Agreement and any agreement supplemental hereto, (v) any covenant herein agreed to be performed by the Company or any act or thing done or omitted to be done by the Company under the provisions hereof, (vi) the existence or sufficiency of insurance or the responsibility of insurers, (vii) the payment of any taxes, assessments or other charges against any of the Trust Equipment or in respect of the Collateral, or the income thereof, (viii) repair, protection or taking possession of any of the Trust Equipment, (ix) the act of any agent, provided only such agent is selected with reasonable care, (x) any action taken or omitted by it under any written request, resolution, certificate, bill of sale or other instrument which it deems genuine and sufficient or in accordance with the opinion of counsel (who may, in the reasonable discretion of the Trustee, be counsel to the Company), or (xi) any delay in the delivery of or any defects in,

any of the Trust Equipment or any default on the part of the builder thereof.

(b) The Trustee may issue and deliver Certificates in advance of the recording of this Agreement.

(c) The Trustee may acquire, hold and sell Certificates issued hereunder with the same rights which it would have if it were not Trustee.

(d) The Trustee shall be entitled to reasonable compensation from the Company for its services hereunder (which shall not be limited to the compensation for trustees provided by law) and to reimbursement for any expenditures made on account of any of the provisions hereof and for any damages or liabilities which it may sustain or incur, including the reasonable compensation and expenses of agents, attorneys-in-fact and counsel, excepting only expenses, damages or liabilities arising from or as a result of the Trustee's wilful misconduct or gross negligence, and, subject to the foregoing exception, shall have a lien therefor against the rentals paid to it under the terms hereof and against the Trust Equipment.

(e) The Trustee may, for all purposes other than payment of principal and dividends on Certificates, conclusively assume that the Company is not in default under the terms hereof until notified in writing to the contrary by any holder of the Certificates then outstanding, which notice shall specify the default desired to be brought to the attention of the Trustee.

(f) Anything herein contained to the contrary notwithstanding, the Trustee shall be under no obligation to take any action for the execution or enforcement of any of the trusts hereby created nor for the enforcement of any right hereunder unless requested thereunto in writing by the holders of not less than 25% in principal amount of the then outstanding Certificates and upon being furnished with indemnity satisfactory to it against expense and liability with respect thereto and also furnished with proof satisfactory to it as to the ownership of the Certificates in respect of which any notice or request may be made; but neither any such request nor this provision therefor shall affect any discretion herein elsewhere specifically given to the Trustee to determine what action it shall take in respect of any such matter, or to take action without request.

(g) The Company, or any original holder of the outstanding Certificates, or either of them, may from time to time examine the books and accounts of the Trustee relating to this Agreement and to the acts of the Trustee hereunder.

SECTION 7.04. The Trustee may resign and be discharged from the trusts created by this Agreement, by giving to the Company and to the registered holders of the Certificates then outstanding notice in writing of such resignation, specifying a date when such resignation shall take effect. Such resignation shall take effect on the date specified in such notice (which date shall not be less than 30 days after the giving of such notice) unless previously a successor trustee shall be appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor trustee. Upon the taking effect of such resignation, the Trustee (or any trustee so resigning) shall, without further act on its part, be completely relieved from any and all obligation or responsibility under or with respect to the Certificates, the Trust Equipment or this Agreement.

Any trustee hereunder may be removed at any time by instrument in writing filed with the Trustee and executed by the holders of not less than a majority in principal amount of the Certificates at the time outstanding.

SECTION 7.05. In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable of acting, a successor may be appointed by the holders of not less than a majority in principal amount of the Certificates at the time outstanding, by an instrument or concurrent instruments signed by such Certificate holders or their attorneys in fact duly authorized and filed with such successor trustee; but until a new trustee shall be appointed by said Certificate holders as herein authorized, the Company, by an instrument executed under its corporate seal, may appoint a trustee to fill or avoid such vacancy. Every such successor trustee, whether appointed by the Certificate holders or by the Company, shall always be a banking corporation authorized to accept and execute trusts and having its principal office in New York, New York, or Chicago, Illinois, or a trust company organized under the laws of the State of Illinois and having its office in Chicago, Illinois, and in each case having a capital and surplus aggregating at least \$100,000,000. After any such appointment by the Company, it shall cause notice of such appointment to be given to the registered holders of the Certificates then outstanding;

but any new trustee so appointed by the Company shall immediately, and without further act, be superseded by a trustee appointed, in the manner above provided, by the holders of not less than a majority in principal amount of the Certificates at the time outstanding.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Company and to the retiring trustee an instrument accepting such appointment hereunder, and thereupon such successor trustee, without any further act, deed or conveyance, shall become vested with title to the trust estate and with all the rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named as trustee herein, and the trustee ceasing to act shall, on the written request of such successor trustee, assign and transfer the trust estate including the Trust Equipment, Collateral, Deposited Cash and other moneys held by the Trustee hereunder or cause the trust estate to be assigned and transferred to the successor trustee, upon payment of all amounts owing to it hereunder. Upon request of such successor trustee, the Company shall execute and deliver such instruments of further assurance as may reasonably be required for more fully and certainly vesting in and confirming to such successor trustee all the right, title and interest of the predecessor trustee in and to the trust estate and such rights, powers, trusts, duties and obligations. All instruments herein provided for shall be at the cost of the Company.

Any corporation resulting from any merger or consolidation to which the Trustee, or any successor to it, shall be a party, provided such corporation shall be organized under the laws of the United States or of the State of New York or the State of Illinois, and in each such case having a capital and surplus aggregating at least \$100,000,000, shall be the successor trustee under this Agreement without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

## **ARTICLE VIII**

### **MISCELLANEOUS**

SECTION 8.01. In order to prevent any accumulation of Certificates after maturity, neither the Trustee nor the Company shall directly or indirectly extend or assent to the extension of the time for the payment of any Certificate, but the same shall be paid at maturity, and no certificate in substitution therefor shall be issued and the Company shall not

directly or indirectly be a party to or approve of any arrangement for purchasing or funding any of the Certificates, or for an advance or loan upon the same, at or after maturity. In case the time for payment of any Certificate shall be so extended, whether or not such extension be by or with the consent of the Trustee or the Company, or in case, at or after maturity, any Certificate or dividend shall be purchased or funded, or an advance or loan upon the same shall be made, by or on behalf of the Company or pursuant to any arrangement requested or approved by or to which it shall be a party or made with the privity of the Company, such Certificate or dividend shall not be entitled to the benefit of this Agreement, except subject to the prior payment in full of the principal of all other Certificates and of all other dividends, whether the same be then matured or unmatured.

SECTION 8.02. No recourse under any obligation, covenant or agreement of this Agreement shall be had against any stockholder, officer or director of the Company, by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise; it being expressly agreed and understood that this Agreement is solely a corporate obligation, and that no personal liability whatever shall attach to or be incurred by the stockholders, officers or directors of the Company, or any of them, under or by reason of any of the obligations, covenants or agreements contained in this Agreement, or implied therefrom, and that any and all personal liability, either at law or in equity, or otherwise, of every such stockholder, officer or director is hereby expressly waived as a condition of and consideration for the execution of this Agreement and the issue and delivery of the Certificates.

SECTION 8.03. Any request or other instrument required by this Agreement to be signed or executed by holders of Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such Certificate holders in person, or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent or attorney, or of the holding by any person of Certificates, shall be sufficient for any purpose of this Agreement, and shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under such request or other instrument, if made in the following manner, viz.:

(a) the fact and date of the execution by any person of any such request or of any other instrument in writing may be proved by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the state or jurisdiction where the acknowledgment may be taken, certifying that the person signing such request or other instrument acknowledged to him the execution thereof; or by the affidavit of a witness to such execution;

(b) the ownership of Certificates shall be determined by the books of the Trustee. The Trustee may presume the continuance of any such holding unless and until it receives proof satisfactory to it to the contrary.

SECTION 8.04. At the termination of the lease, any moneys remaining in the hands of the Trustee, after paying the principal of and dividends upon the Certificates, and the liabilities and expenses of the Trustee, including its reasonable compensation, shall be paid to the Company.

SECTION 8.05. Anything herein to the contrary notwithstanding, the Company may consolidate or merge with any other corporation or corporations or sell all or substantially all of its property to another corporation and all rights and interests of the Company under this Agreement may pass to or be transferred and assigned to the corporation resulting from such merger or consolidation or such purchasing corporation, provided that any such merger or consolidation or sale shall be on such terms as not to impair the title of the Trustee to the Trust Equipment or the Collateral and the other rights of the Trustee and the interests of the holders of Certificates and that such corporation resulting from such merger or consolidation or such purchasing corporation shall as a condition of such merger or consolidation or sale expressly assume the lease provided in Article III and the obligations and provisions of this Agreement and the guarantees endorsed upon the Certificates and shall enter into with the Trustee an appropriate agreement satisfactory to the Trustee evidencing such assumption and shall make provision satisfactory to the Trustee for duly filing and recording any instruments which the Trustee may require to be filed or recorded.

SECTION 8.06. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon, or to give to any person, firm or corporation other than the parties hereto and the holders

of the Certificates, any right, remedy or claim, under or by reason of this Agreement, or any term, covenant or condition thereof, and all of the terms, covenants, conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Certificates.

SECTION 8.07. Whenever, under the provisions hereof, it is necessary or proper or desired for any notice or demand to be made to or upon the Company, such notice or demand may be given or made to the Company by depositing a written statement thereof in the United States mail postpaid, directed to the Company at Chicago, Illinois, and an affidavit by any person representing or acting on behalf of the Trustee as to such mailing shall be conclusive evidence of the giving of such notice and the making of such demand.

SECTION 8.08. This Agreement may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

SECTION 8.09. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Company and the Trustee, pursuant to due corporate authority, have caused this Agreement to be signed in their respective corporate names by their respective officers thereunto duly authorized, and their respective corporate seals to be hereunto affixed and duly attested, as of the day and year first above written.

NORTH AMERICAN CAR CORPORATION

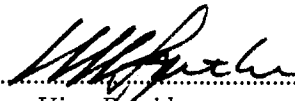
By  .....  
Chairman of the Board


(CORPORATE SEAL)

Attest:  .....  
Secretary

(CORPORATE SEAL)

HARRIS TRUST AND SAVINGS BANK,  
*Trustee*

By .....  .....  
*Vice President*

Attest: .....  .....  
*Assistant Secretary*



STATE OF ILLINOIS }  
COUNTY OF COOK } ss.

I, ELLEN M. STRONG, a Notary Public in and for the County and State aforesaid, do hereby certify that on the 3rd day of September, 1970, E. C. R. Lasher and Arthur M. Wright, known to me to be the Chairman of the Board and the Secretary, respectively, of North American Car Corporation, personally appeared before me and being first duly sworn by me severally acknowledged that they signed the foregoing document in the respective capacities therein set forth and declared that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.

Ellen M. Strong  
Notary Public

(NOTARIAL SEAL)

My commission expires July 1, 1974

STATE OF ILLINOIS }  
COUNTY OF COOK } ss.

I, Rose Marie Mancini, a Notary Public in and for the County and State aforesaid, do hereby certify that on the 3 day of Sept, 1970, W. H. SPITLER and R. G. Mason known to me to be one of the Vice Presidents and one of the Assistant Secretaries, respectively, of Harris Trust and Savings Bank, personally appeared before me and being first duly sworn by me severally acknowledged that they signed the foregoing document in the respective capacities therein set forth and declared that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.

Rose Marie Mancini  
Notary Public

(NOTARIAL SEAL)

My commission expires February 19, 1971